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INTRODUCTION TO THE CIVILIAN TRADITION

Professor Jean-François Gaudreault-DesBiens

Faculty of Law
University of Toronto
2004

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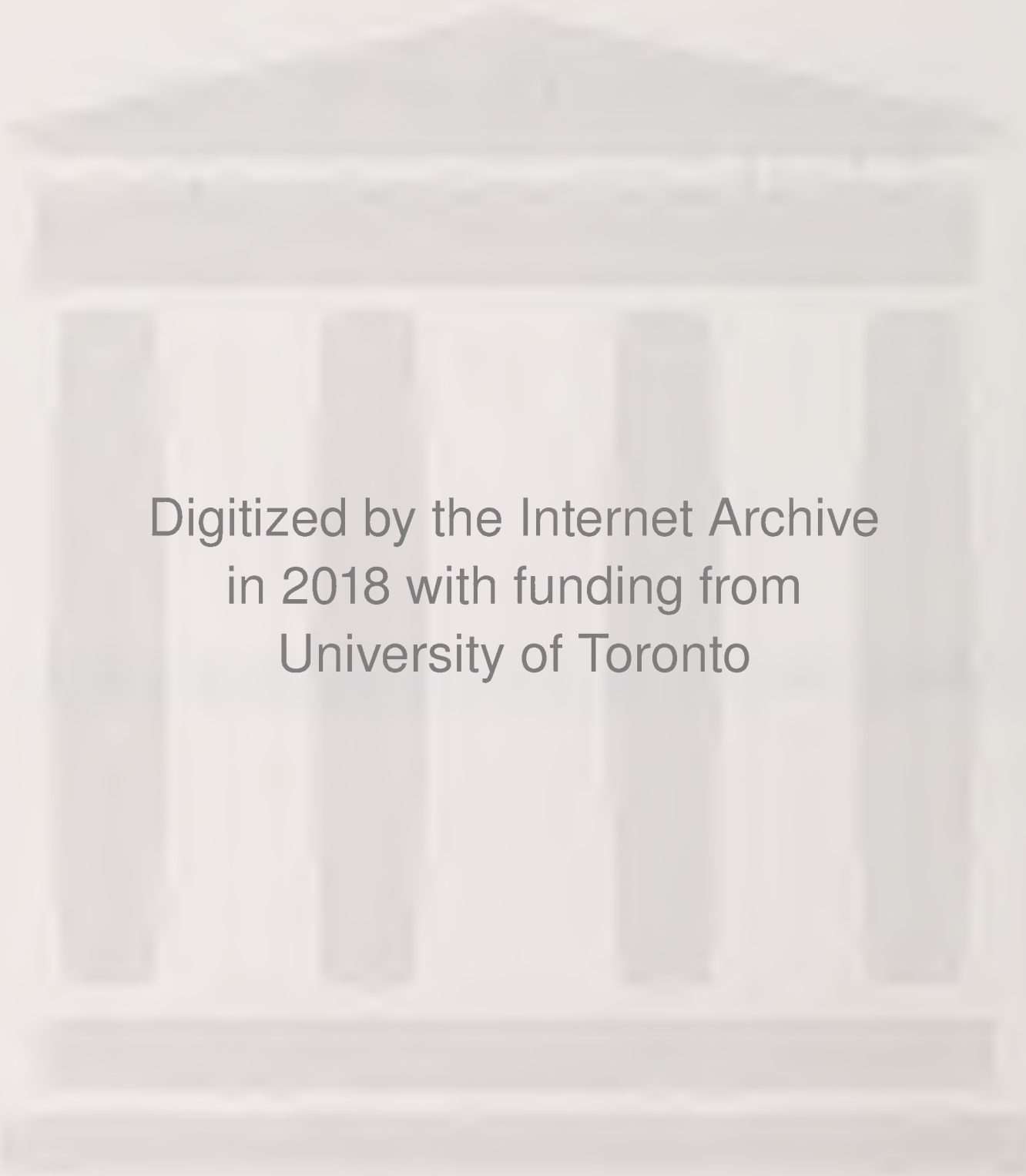
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INTRODUCTION TO THE CIVILIAN TRADITION

INTRODUCTION: On English and French gardens

I – On Comparative Law

A - How not to do comparative law: clichés about a legal tradition

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B – The construction of legal otherness

- N. Kasirer, “ ‘K’ as a Structure of Anglo-American Legal Knowledge”, (1997) 22 *Canadian Law Libraries* 159

B – Purposes, epistemology, and methodology of comparative law

- J.H. Merryman, “Comparative Law Scholarship”, (1998) 21 *Hastings International and Comparative Law Review* 771
- R. Sacco, “Legal Formants: A Dynamic Approach to Comparative Law”, (1991) 39 *American Journal of Comparative Law* 1
- H.P. Glenn, “Are Legal Traditions Incommensurable”, (2001) 49 *American Journal of Comparative Law* 133

II – On the Civilian tradition

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- *Théberge v. Galerie d'Art du Petit Champlain inc.* (2002) SCC 34
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III – On the Civilian method of interpretation

- C. Baudenbacher, “Some Remarks on the Method of the Civil Law”, (1999) 34 *Texas International Law Journal* 333
- K. Zweigert & H.-J. Puttfarcken, “Statutory Interpretation – Civilian Style”, (1970) 44 *Tulane Law Review* 704
- *Ducharme v. Matamajaw Salmon Club*, (1919) 58 S.C.R. 222
- *Doré v. Verdun (City)*, [1997] 2 S.C.R. 862

IV – On the Civilian “style”

- B.S. Markesinis, “A Matter of Style”, in: *Foreign Law and Comparative Methodology: A Subject and a Thesis*, (Oxford: Hart Publishing, 1997), p. 126

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VI – The Civilian Tradition in Anglophone North America

- A. Levasseur, “Bijuralism in Federal Systems and in Regions of Local Autonomy”, (1990) 38 *American Journal of Comparative Law* 23

VII – The Civilian Tradition in a Mixed Jurisdiction: Québec and Canada

- B. Dickson, “Federalism, Civil Law and the Canadian Judiciary: an Integrated Vision”, (1994) 28 *Revue juridique Thémis* 457
- C. Valcke, “Quebec Civil Law and Canadian Federalism”, (1996) 21 *Yale Journal of International Law* 67
- *Prud’homme v. Prud’homme*, 2002 SCC 85

- *Civil Code of Québec*, excerpts.

VIII – Specific topics

A - Good faith and abuse of rights

- *National Bank of Canada v. Houle*, [1990] 3 S.C.R. 122
- S. Whittaker & R. Zimmermann, “Good Faith in European Contract Law: Surveying the Legal Landscape”, in: R. Zimmermann & S. Whittaker (eds.), *Good Faith in European Contract Law*, (New York: Cambridge University Press, 2000), p. 7

B - Corporate governance

- K.J. Hopt, “Common Principles of Corporate Governance in Europe?”, in: B.S. Markesinis (ed.), *The Clifford Chance Millennium Lectures. The Coming Together of the Common Law and the Civil Law*, (Oxford: Hart Publishing, 2000), p. 105

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